HOUSE CONCURRENT RESOLUTION

URGING THE UNITED STATES CONGRESS, FEDERAL AVIATION

ADMINISTRATION, AND HAWAII DEPARTMENT OF TRANSPORTATION

TO TAKE EVERY ACTION NECESSARY TO ADDRESS RAPIDLY

INCREASING SAFETY RISKS AND COMMUNITY DISRUPTION

RESULTING FROM INSUFFICIENT REGULATION OF TOUR HELICOPTER

AND SMALL AIRCRAFT OPERATIONS THROUGHOUT HAWAII SKIES.

WHEREAS, the volume and extent of tour helicopter and small aircraft operations throughout Hawaii's skies have rapidly increased in the past decade; and

WHEREAS, with such increases, the safety risks to helicopter and small aircraft passengers, and to the Hawaii residents and visitors that the helicopters and small aircraft fly over daily, have rapidly increased; and

WHEREAS, tour helicopters and small aircraft in Hawaii's skies, through noise, vibration, and visual impacts, have increasingly disrupted residential, business, and industrial communities; state and national parks, such as Hawaii Volcanoes National Park and Haleakala National Park; defense areas, such as Joint Base Pearl Harbor-Hickam; cemeteries and areas of solemnity, such as the National Memorial Cemetery of the Pacific and Pearl Harbor National Memorial; and areas of critical infrastructure; and

WHEREAS, the National Transportation Safety Board (NTSB), which is the federal agency responsible for investigating aircraft collisions and making recommendations on improving the safety of aircraft operations, found that Hawaii tour helicopter and small aircraft operations accounted for nearly seventeen percent of the nationwide accidents that prompted investigations by the NTSB over the last five years; and

WHEREAS, within a ten-month period alone, twenty-three lives were lost through the following tour helicopter and small aircraft collisions in the State:

(1) On April 29, 2019, a tour helicopter crashed into a residential neighborhood in Kailua, Oahu, killing three people;

(2) On June 21, 2019, a commercial small aircraft crashed at Mokuleia, Oahu, killing eleven people;

(3) On December 27, 2019, a tour helicopter crashed on Kauai, killing seven people; and

(4) On February 22, 2020, a commercial small aircraft crashed at Mokuleia, Oahu, killing two people; and

WHEREAS, over the past decade, tour helicopters and small aircraft have been involved in several other incidents that, while not fatal, nevertheless constituted severe risks to the passengers, residents, and visitors on the ground; and

WHEREAS, these disruptions and crashes are largely the result of a lack of effective federal regulations and a lack of self-regulation in the tour helicopter and small aircraft industry; and

WHEREAS, effective regulations to eliminate or mitigate ground disruptions would place restrictions on the time, routes, altitude, and frequency of helicopter and small aircraft operations; and

 WHEREAS, communities would be safer and would face fewer disruptions from tour helicopter and small aircraft operations if existing federal acts and regulations, including the following, were used to their full extent:

(1) The National Park Air Tour Management Act of 2000, as amended, which requires operators conducting commercial air tours over national parks to operate pursuant to an air tour management plan issued by the Federal Aviation Administration (FAA) and National Park Service, or in lieu of such a plan, pursuant to a voluntary agreement with the agencies;

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(2) The Airport Noise and Capacity Act of 1990, which establishes the FAA's authority over airport owners' noise restrictions; and

(3) Title 14 Code of Federal Regulations part 50, which regulates the FAA's airport noise compatibility planning programs; and

WHEREAS, the United States Court of Appeals for the District of Columbia Circuit, in the case of In Re: Public Employees for Environmental Responsibility and Hawaii Coalition Malama Pono in May 2020, ordered the FAA and National Park Service to bring all required national parks into compliance with the National Park Air Tour Management Act of 2000, including Hawaii Volcanoes National Park and Haleakala National Park, within two years; and

WHEREAS, the FAA largely asserts that it has exclusive jurisdiction over regulating the nation's airspace and aircraft operations, which means that the FAA, not the State, has the sole power and responsibility to establish and enforce restrictions that would prevent tour helicopter and small aircraft operations from disrupting communities; and

WHEREAS, although the NTSB has made various safety recommendations to the FAA that would apply to tour helicopter and small aircraft operations, the board is still waiting for an acceptable response from the FAA on a number of the recommendations; and

WHEREAS, following the April 29, 2019, crash in Kailua, the Chair of the NTSB stated that "each crash underscores the urgency of improving the safety of charter flights by implementing existing [NTSB] safety recommendations", and called for small aircraft flight safety improvements; and

WHEREAS, the FAA is currently in the process of archiving the Hawaii Air Tour Common Procedures Manual and replacing it with a new regulatory process for determining when and how tour flights can deviate below fifteen hundred feet in altitude, which they are otherwise required to be above; and

 WHEREAS, the FAA, Hawaii Department of Transportation, some Hawaii tour helicopter companies, and other interested stakeholders have formed the Hawaii Air Noise and Safety Task Force with the stated intent of addressing increasing safety and community disruption concerns, but are not fully engaging and responding to public concerns in determining regulatory or voluntary changes in operations; and

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WHEREAS, an increasing number of elected officials and community organizations have expressed growing concern with safety risks and community disruption arising from tour helicopter and small aircraft operations; and

WHEREAS, Ed Case, Representative for the First Congressional District of Hawaii, has introduced legislation in the United States House of Representatives, H.R. No. 389, 117th Congress (First Session 2021) with a short title of the "Safe and Ouiet Skies Act"; and

WHEREAS, if enacted, H.R. No. 389 would, in pertinent part:

(1) Prohibit commercial air tours from operating over or within a half mile of especially sensitive locations;

(2) Require the FAA to require the use of automatic dependent surveillance-broadcast out equipment during the entire operation of a commercial air tour;

(3) Require the FAA to prohibit pilots from undertaking any activities other than flying the aircraft, including monitoring video equipment or narrating, during the operation of a commercial air tour;

(4) Impose minimum altitude requirements and noise restrictions on commercial air tours;

(5) Authorize state and local jurisdictions to impose additional requirements on commercial air tours;

 (6) Require the FAA to implement any recommendations issued by the NTSB concerning operators of commercial aircraft on which the FAA has not provided an acceptable response to the board; and

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(7) Require the FAA to subject commercial air tour operators to certain regulations relating to commercial aircraft operators, instead of regulations relating to non-commercial aircraft operators; and

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WHEREAS, on January 31, 2020, the United States Senate Committee on Commerce, Science, and Transportation released a report entitled, "Whistleblower Allegations of Misconduct at the FAA Flight Standards District Office in Honolulu, Hawaii", outlining multiple whistleblower claims of inadequate safety regulation of tour helicopters, specifically including those involved in the fatal crashes in Kailua on April 29, 2019, and on Kauai on December 27, 2019; and

 WHEREAS, the Honolulu City Council and nineteen of Oahu's neighborhood boards have taken official actions to urge the federal government to act to address the disruptions and dangers posed by tour helicopter and small aircraft operations; and

WHEREAS, the lack of effective federal regulations and the lack of effective self-regulation by the tour helicopter and small aircraft industry pose a significant and growing threat to the safety, health, and well-being of the nation and the State; now, therefore,

BE IT RESOLVED by the House of Representatives of the Thirty-first Legislature of the State of Hawaii, Regular Session of 2021, the Senate concurring, that the United States Congress, FAA, and Hawaii Department of Transportation are urged to take every action necessary to address rapidly increasing safety risks and community disruption resulting from insufficient regulation of rapidly increasing operations of tour helicopters and small aircraft throughout Hawaii skies; and

BE IT FURTHER RESOLVED that the United State Congress is urged to promptly enact the proposed Safe and Quiet Skies Act; and

 BE IT FURTHER RESOLVED that the Hawaii Department of Transportation and FAA are urged to pursue existing remedies to limit community disruption through the Airport Noise and Capacity Act of 1990 and title 14 Code of Federal Regulations part 150; and

 BE IT FURTHER RESOLVED that the FAA is urged to:

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(1) Implement any recommendations issued by the NTSB concerning operators of commercial aircraft on which the FAA has not provided an acceptable response to the Board;

(2) Fully implement, in concert with the National Park Service, the requirements of the National Park Air Tour Management Act of 2000 with respect to all applicable Hawaii parks and other relevant areas as required by the United States Court of Appeals for the District of Columbia Circuit; and

(3) Immediately and fully investigate whistleblowers' claims with respect to the Honolulu Flight Standards District Office's implementation of safety requirements; and

BE IT FURTHER RESOLVED that the Hawaii Air Noise and Safety Task Force is urged to immediately respond substantively to public safety and community disruption concerns with clear changes to operations to reduce time, place, and manner of operations; and

BE IT FURTHER RESOLVED that federal, state, and county elected and administration officials are urged to pursue these actions, the enactment of legislation to authorize state and local governments to regulate helicopter and small aircraft operations, and all other actions that will enhance safety and prevent community disruption by Hawaii tour helicopter and small aircraft operations; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Speaker of the House of the United States House of Representatives; Majority Leader of the United States Senate; members of Hawaii's congressional delegation; United States Secretary of Transportation; Administrator of the Federal Aviation Administration; Manager of the Honolulu Flight Standards District Office of the Federal Aviation Administration; Chair of the National Transportation Safety Board; Director of the National Park Service; Governor; Hawaii Director of Transportation; mayor of each county; chair

- of each neighborhood board; and co-chairs of the Hawaii Air
- 2 Noise and Safety Task Force.